

DRAWING AMENDMENTS

In the Drawing:

The drawings were objected to failing to show every feature of the invention as specified in the claims. Specifically, the Examiner objected to the drawings because "the hydraulic gearbox control device in a motor vehicle as recited in claim 1" was not shown in the drawing. Claim 1 has been amended to make clear that the invention is directed to a "plastic control plate" for use in a "hydraulic gearbox control device in a motor vehicle," not a hydraulic gearbox control device itself. Amended claim 1 now lists an intended use of the claimed "plastic control plate" in the preamble. Applicants respectfully submit Figures 1-5 show every feature specified in the body of the claims and that the application is in compliance with 37 C.F.R. § 1.83(a).

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 21, 2004. At the time of the Office Action, Claims 1-22 were pending in this Application. Claims 1-16 and 18-22 were rejected and Claims 9 and 17 were objected to. Claims 1-3, 7, 8, 10, 11 and 15 have been amended to further define various features of Applicants' invention. Claims 17 has been cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §112

Claims 2, 3, 7-14, 16, 18, and 19 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 2, 3 7-14, 16, 18 and 19 to overcome these rejections and respectfully request full allowance of said Claim as amended.

Rejections under 35 U.S.C. §102 and §103

Claims 1, 3, 4, 7, 8, 11, 12, 15, 16, 19, and 20 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by German Patent DE 197 15 592 filed by Spiess et al. ("Spiess et al."). Applicants respectfully traverse and submit Spiess et al. do not disclose or teach Applicants' presently claimed invention.

Claims 1, 7 and 15 are independent claims. Claim 15 has been amended to incorporate the limitations of allowable Claim 17. Claim 17 has been canceled. Consequently, Applicants respectfully submit Claim 15 is in condition for allowance. Claims 16 and 18-22 are dependent on now allowable Claim 15. Thus, Applicants request favorable action with respect to Claims 15, 16 and 18-22. The Applicants thank the Examiner for the indication of allowable subject matter.

Claim 1 has been amended to further define the invention and make clear the invention is directed to a plate having at least "one channel" running through the plate which is directly adjacent to the heat conduction body partially integrated in the plastic control

plate. Spiess et al., at best, show a channel, but do not show a channel running through a plate, in contact with a heat conduction body. Referring to Figure 1 of Spiess et al., the number "8" refers to a space for "Elektronikbaustein" or electrical components, not a "heat conduction body plate" as now claimed. Moreover, Spiess et al. do not disclose in Figures 1 and 2, or otherwise, a heat conduction metal body plate "at least partially integrated" in a "plastic control plate." The system of Spiess et al. shown in Figures 1 and 2 does not show or suggest a plastic control "plate" or a "conduction body plate." Indeed, as noted, the Examiner agrees Spiess et al. do not disclose a "heat conduction metal body plate": "Spiess et al. ... fails to show the body being a metal plate." (Rejection, p. 4) Consequently, Applicants respectfully submit amended Claim 1 overcomes the §102 rejection. Claims 3 and 4, dependent on Claim 1, thus are also patentable over Spiess et al.

Claim 7 has been amended to more particularly define the invention. Spiess et al., as discussed above fails to disclose or teach a "metal heat conduction body" or a "channel" running through a plastic plate wherein the "metal heat conduction body" is integrated. Spiess et al. disclose a space "8" for holding "Elektronikbaustein" not a "heat conduction body" to dissipate heat from said electronic components. And Spiess et al., admittedly do not teach, disclose or suggest "a heat conduction metal body plate." Consequently, Applicants believe the amendments overcome the §102 rejection. Claims 11 and 12 depend from Claim 7 and hence, Applicants submit said amendments also overcome the rejection of those claims.

Claims 1, 2, 5-8, 10, 13-16, 18, 21 and 22 were rejected over the assignee's Loibl et al. '708 patent in view of Farshi. Applicants respectfully submit such a combination is not proper since the principles of heat dissipation proposed by each are not compatible. As is well known, to combine the teachings of two references, there must be some suggestion in the art to combine and there must be some reasonable expectation that the combination will be successful. Neither exist here. For example, Loibl et al. teach the use of a base plate 10 that is in direct contact with the electronic circuit 23 substrate and "serves as a heat sink for the electronic circuit 23." (Col. 3, lines 49-54) Indeed, Loibl et al. teach the "heat that is generated by the components on the ceramic substrate is dissipated to the base plate 10 via a heat transfer adhesive." (Col. 3, line 49-51) Thus, the base plate of Loibl et al. is in direct contact with the electronic circuit. Farshi et al., on the other hand, criticize and teach away

from systems like Loibl et al. involving conductive heat transfer or dissipation via direct contact. For example, Farshi criticizes the prior art Loibl-like systems as follows:

Since these traditional cooling modules rely on conductive heat transfer, they must come into direct contact with the surface of the electronic control unit that they are cooling.

(Col. 1, lines 60-63)

* * *

Again backside cooling modules suffer similar problems as the traditional cooling modules in that both use conductive heat transfer to cool the electronic control unit.

(Col. 2, lines 14-17)

Accordingly, Farshi teaches away, *i.e.*, against the use any system like Loibl utilizing a heat sink in direct contact with the electronic circuit to conduct heat away from the circuit. Consequently, it is respectfully submitted that one of ordinary skill in the art reading Farshi, and being aware of Loibl, would not be motivated to modify Loibl to arrive at the claimed invention, but just the opposite. One reading Farshi, would be inclined to avoid Loibl-like systems completely, not be lead to the claimed invention. As noted, Farshi teaches to completely avoid heat conduction metal bodies and utilize a convection system. Indeed, the channels of Farshi, not surprisingly, are not in contact with a heat conduction body as now claimed. Consequently, since the Loibl and Farshi systems operate on totally different mutually exclusive principles, Applicants respectfully submit the §103 rejection or combination of the two is not proper and request withdrawal of the same. Withdrawal seems appropriate as mandated in the MPEP, page 2100-132 which states:

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

The court in *In re Ratti*, noted that the obviousness rejection combination was improper because, as here, the:

suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic

principle under which the [primary reference] construction was designed to operate.

Id. at 813. (MPEP, p. 2100-132)

And it is axiomatic, that “[i]t is improper to combine the references where the references teach away from their combination.” *In re Grasselli*, 713 F.2d 731, 743 (Fed. Cir. 1983); (MPEP 2145 X.D.2, p. 2100-162). Favorable action is requested in relation to Claims 1, 2, 5-8, 10, 13-16, 18, 21 and 22.

CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of Claims 1-16 and 18-22 as amended.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any to Deposit Account No. 50-2148 of Baker Botts L.L.P. in order to effectuate this filing.

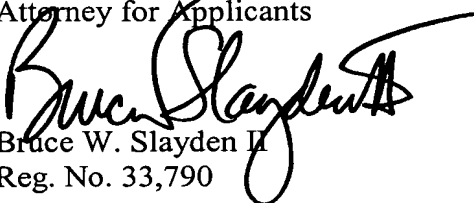
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12

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2606.

Respectfully submitted,
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